

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7205 of 1992

with

CIVIL APPLICATION No 2556 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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THAKORBHAI VAGHJIBHAI AMIN

Versus

DY COLLECTOR OF BARODA

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Appearance:

1. Special Civil Application No. 7205 of 1992  
MR PM BHATT for Petitioners  
MR SA Pandya AGP for Respondent No. 1
2. Civil ApplicationNo 2556 of 1998  
MR PM BHATT for Petitioners  
MR SA PANDYA AGP for Respondent No. 1

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 08/04/99

## ORAL JUDGEMENT

1. The petitioners, by way of this petition, challenge the order dated 27.11.1984 at annexure C passed by the Deputy Collector, Baroda confirmed in appeal by an order dated 13.12.1989 at annexure D by the Collector, Baroda and in revision by order dated 26.6.1992 at annexure F passed by the Additional Chief Secretary (Appeals), Revenue Department. The petitioners purchased lands from one Chandrasinhrao Madhavsinhrao Savant in the year 1981 bearing survey no. 135 paiki of village Subhelav of Savli taluka by registered sale deeds. The entries in revenue records have been made on 24.4.1981 on the basis of title deeds vide entries nos. 384, 385, 386 and 387. The Deputy Collector, Baroda, by exercising powers, initiated proceedings under Rule 108 of the Gujarat Land Revenue Rules, 1972 and by his order dated 27.11.1984, disallowed the entries made in the revenue record and directed the Additional Mamlatdar and ALT, Savli to commence proceedings under the Gujarat Agricultural Lands Ceiling Act, 1960 and under the provisions of the Tenancy Act. The petitioners challenged the said order before Collector, Baroda, the respondent no.2 herein by way of appeals being Appeal Nos. 52 of 1987 to 55 of 1987. It appears that though the common order was passed by the Deputy Collector with respect to all the entries, the petitioners had challenged the said common order against each of the entry by filing separate appeals. All the appeals were dismissed by the Collector by his order dated 13.12.1989 vide Annexure D. The petitioners preferred revision application against the order of the Collector being Revision Application No. 9 of 1990 before the Additional Chief Secretary (Appeals), Revenue Department, respondent no.3 herein, who by his order dated 26.6.1992, rejected the revision application. As stated above, the petitioners have challenged all these orders by way of this petition.

2. Mr.P.M.Bhatt, learned advocate appearing for the petitioners, after inviting my attention to the orders passed by the Mamlatdar and ALT, Savli in Tenancy Cases Nos. 287 of 1990, 288 of 1990, 289 of 1990 and 291 of 1990, Annexures G to J to the petition, submitted that the Mamlatdar & ALT, Savli, in pursuance of the directions given by the Deputy Collector, commenced proceedings under section 84-C of the Bombay Tenancy and Agricultural Lands Act, 1948 and by his orders at Annexures G to J, held as under:-

"By transfer of land between the parties in  
respect of survey no. 135 paiki of village

Subhelav, Taluka Savli, section 2(6) of the Tenancy Act is not violated. Therefore, it is resolved that the inquiry proceedings under section 84-C are closed."

Mr.Bhatt further submitted that in view of this subsequent order passed by the Mamlatdar & ALT, the petition is required to be allowed by setting aside the order at Annexures C,D and F passed by the respondents. I find considerable substance in the submissions of Mr. Bhatt. Without going into the controversy as to whether the Deputy Collector can go into the question of deciding the title deeds while exercising powers under Rule 108 of the Gujarat Land Revenue Rules, in view of the subsequent order passed by the Mamlatdar & ALT in pursuance of the directions given by the Deputy Collector, Baroda, recording a specific finding that by transfer of the land in question in favour of the petitioners, there is no breach of section 2(6) of the Tenancy Act and, therefore, the proceedings under section 84-C are closed, the impugned order whereby all the entries, namely entries nos. 384, 385, 386 and 387 made and certified are disallowed, in my opinion, has become redundant. Consequently, the orders passed in appeal and revision at annexures D and F respectively also become redundant and, therefore, they are required to be quashed and set aside.

3. In the result, the petition is allowed. The respondents are directed to effect entries in the revenue records with respect to the land bearing survey no. 135 paiki of village Subhelav, Taluka: Savli, in pursuance of the sale deeds executed in favour of the petitioners by one Chandrasinhrao Madhavsinhrao Savant. Rule is made absolute accordingly with no order as to costs.

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mhs/-